

Administration of Donald J. Trump, 2020

Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use

April 3, 2020

Memorandum for the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Federal Emergency Management Agency

Subject: Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, as amended (50 U.S.C. 4501 *et seq.*) (the "Act"), it is hereby ordered as follows:

Section 1. Policy. To deal with the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our Nation's healthcare systems, on March 18, 2020, I issued Executive Order 13909 (Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of COVID-19), in which I found that health and medical resources needed to respond to the spread of COVID-19, including personal protective equipment (PPE) and ventilators, meet the criteria specified in section 101(b) of the Act (50 U.S.C. 4511(b)). And on March 23, 2020, I issued Executive Order 13910 (Preventing Hoarding of Health and Medical Resources to Respond to the Spread of COVID-19), in which I delegated to the Secretary of Health and Human Services the authority under section 102 of the Act (50 U.S.C. 4512) to combat hoarding with respect to such resources. On March 27, 2020, I issued Executive Order 13911 (Delegating Additional Authority under the Defense Production Act With Respect to Health and Medical Resources to Respond to the Spread of COVID-19), in which I delegated to the Secretary of Homeland Security the prioritization and allocation authority under section 101 of the Act (50 U.S.C. 4511) with respect to such resources.

On March 25, 2020, the Secretary of Health and Human Services designated under section 102 of the Act 15 categories of health and medical resources as scarce materials or materials the supply of which would be threatened by accumulation in excess of the reasonable demands of business, personal, or home consumption, or for the purpose of resale at prices in excess of prevailing market prices ("scarce or threatened materials"). These designated items include certain PPE materials. To ensure that these scarce or threatened PPE materials remain in the United States for use in responding to the spread of COVID-19, it is the policy of the United States to prevent domestic brokers, distributors, and other intermediaries from diverting such material overseas.

Sec. 2. Presidential Direction to the Secretary of Homeland Security. The Secretary of Homeland Security, through the Administrator of the Federal Emergency Management Agency, in consultation with the Secretary of Health and Human Services, shall use any and all authority available under section 101 of the Act to allocate to domestic use, as appropriate, the following scarce or threatened materials designated by the Secretary of Health and Human Services under section 102 of the Act:

(a) N-95 Filtering Facepiece Respirators, including devices that are disposable half-face-piece non-powered air-purifying particulate respirators intended for use to cover the nose and mouth of the wearer to help reduce wearer exposure to pathogenic biological airborne particulates;

(b) Other Filtering Facepiece Respirators (e.g., those designated as N99, N100, R95, R99, R100, or P95, P99, P100), including single-use, disposable half-mask respiratory protective

devices that cover the user's airway (nose and mouth) and offer protection from particulate materials at an N95 filtration efficiency level per 42 CFR 84.181;

(c) Elastomeric, air-purifying respirators and appropriate particulate filters/cartridges;

(d) PPE surgical masks, including masks that cover the user's nose and mouth and provide a physical barrier to fluids and particulate materials; and

(e) PPE gloves or surgical gloves, including those defined at 21 CFR 880.6250 (exam gloves) and 878.4460 (surgical gloves) and such gloves intended

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

NOTE: An original was not available for verification of the content of this memorandum.

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